

1 JENNIFER L. BARTLETT, CA Bar No. 183154
2 JORDAN BLUMENFELD-JAMES, CA Bar No. 235185
3 SIMON GREENSTONE PANATIER BARTLETT, P.C.
3780 Kilroy Airport Way, Suite 540
Long Beach, California 90806
Telephone (562) 590-3400
4 Facsimile (562) 590-3412

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 21 2018

Sherril R. Caron, Executive Officer/Clerk
By: Sherril R. Caron, Deputy

5 JOHN M. CARON, Esq., CA Bar No. 130633
6 THE LAW OFFICE OF WORTHINGTON & CARON, P. C.
273 W. 7th Street
7 San Pedro, California 90731
Telephone (310) 221-8090
8 Facsimile (310) 221-8095

9 Attorneys for Plaintiffs

10
11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14 KATHRYN SCHACKNE,
15 Individually and as Personal
16 Representative of the Estate of
17 MICHAEL SCHACKNE, Deceased,
18 and KYLEE STEPNER and KACIN
19 SCHACKNE,

20 Plaintiffs,

21 vs.

22 3M COMPANY a/k/a MINNESOTA
23 MINING & MANUFACTURING
24 COMPANY;
25 AMERICAN INTERNATIONAL
26 INDUSTRIES INC. (sued individually
27 and as successor-in-interest to THE
28 NESLEMUR COMPANY);
ARKEMA INC. f/k/a PENNWALT
CORPORATION;
AUTOZONE, INC.;
AUTOZONE WEST, INC. (formerly
known as CHIEF AUTO PARTS, INC.
for CHIEF AUTO PARTS);
BAKERS PRIDE OVEN
COMPANY, LLC f/k/a BAKERS
PRIDE OVEN COMPANY, INC.;
BASF CATALYSTS LLC (sued

Case No.

BC 8 87 07 4

THIS ACTION CONSTITUTES COMPLEX
ASBESTOS LITIGATION – SUBJECT TO
THE GENERAL ORDERS CONTAINED IN
FILE NO. C 700000 – DEPT. 59

COMPLAINT FOR WRONGFUL DEATH
AND A SURVIVAL ACTION – ASBESTOS
(NEGLIGENCE; STRICT LIABILITY;
CONSPIRACY)

1 individually and as successor-in-interest
2 to ENGELHARD CORPORATION and
3 its subsidiary PITA REALTY
4 LIMITED s/b/m EASTERN
5 MAGNESIA TALC COMPANY);
6 BORG WARNER CORPORATION
7 by its successor-in-interest BORG-
8 WARNER MORSE TEC, INC.;
9 BRENNTAG NORTH AMERICA,
10 INC. (sued individually and as
11 successor-in-interest to MINERAL
12 PIGMENT SOLUTIONS, INC. and as
13 successor-in-interest to WHITTAKER
14 CLARK & DANIELS, INC.);
15 BRENNTAG SPECIALTIES, INC.
16 f/k/a MINERAL PIGMENT
17 SOLUTIONS, INC. (sued individually
18 and as successor-in-interest to
19 WHITTAKER CLARK & DANIELS,
20 INC.);
21 CALAVERAS ASBESTOS, LTD;
22 CHARLES B. CHRYSTAL
23 COMPANY, INC.;
24 CIRRUS ENTERPRISES, LLC (sued
25 individually and as successor-in-interest
26 to E.V. ROBERTS AND
27 ASSOCIATES, INC. and EVRA, INC.);
28 COLGATE-PALMOLIVE
COMPANY (sued individually and as
successor-in-interest to THE MENNEN
COMPANY);
CSK AUTO, INC. (sued individually
and as successor-by-merger to
KRAGEN AUTO SUPPLY CO. and
SHUCKS AUTO PARTS);
CYPRUS AMAX MINERALS
COMPANY (sued individually, doing
business as, and as successor to
METROPOLITAN TALC CO. INC.
and CHARLES MATHIEU INC. and
SIERRA TALC COMPANY and
UNITED TALC COMPANY);
CYTEC INDUSTRIES, INC. (sued
individually and as successor-in-interest
to AMERICAN CYANAMID);
DAP PRODUCTS, INC.;
EASTERN MAGNESIA TALC
COMPANY;
FORD MOTOR COMPANY;
GENUINE PARTS COMPANY a/k/a
NAPA;

1 **GEORGIA-PACIFIC LLC f/k/a**
2 **GEORGIA-PACIFIC CORPORATION;**
3 **G. S. BLODGETT CORPORATION;**
4 **HARCO LLC f/k/a HARCO**
5 **LABORATORIES, INCORPORATED;**
6 **HENKEL CORPORATION f/k/a**
7 **HENKEL LOCTITE CORPORATION**
8 **(sued as successor to PERMATEx**
9 **COMPANY, INC. and individually and**
10 **as successor-in-interest to DEXTER**
11 **HYSOL AEROSPACE, INC.);**
12 **HENNESSY INDUSTRIES, INC.;**
13 **HENRY COMPANY LLC;**
14 **W.W. HENRY COMPANY;**
15 **HOLLEY PERFORMANCE**
16 **PRODUCTS;**
17 **HONEYWELL INTERNATIONAL,**
18 **INC. f/k/a ALLIED-SIGNAL,**
19 **INC.(sued as successor-in-interest to**
20 **BENDIX CORPORATION and as**
21 **successor to STROMBERG**
22 **CARBURETOR);**
23 **IMERYS TALC AMERICA, INC.**
24 **(sued individually and as successor-in-**
25 **interest to LUZENAC AMERICA, INC.**
26 **successor-in-interest to CYPRUS**
27 **INDUSTRIAL MINERALS**
28 **COMPANY);**
INSIGHT PHARMACEUTICALS
CORPORATION, a subsidiary of
PRESTIGE BRANDS HOLDINGS,
INC.;
INSIGHT PHARMACEUTICALS
LLC, a subsidiary of PRESTIGE
BRANDS HOLDINGS, INC.;
ITW POLYMERS SEALANTS
NORTH AMERICA a/k/a/ ITW
ENGINEERED POLYMERS NORTH
AMERICA;
METROPOLITAN LIFE
INSURANCE COMPANY;
MW CUSTOM PAPERS, LLC as
successor-in-interest to THE MEAD
CORPORATION;
NOVARTIS PHARMACEUTICALS
CORPORATION (sued individually
and as successor-in-interest to CIBA-

1 GEIGY CORPORATION and its
2 subsidiary CIBA CONSUMER
3 PHARMACEUTICALS);
4 O'REILLY AUTO ENTERPRISES
5 LLC (sued as successor-by-merger to
6 CSK AUTO, INC.);
7 O'REILLY AUTOMOTIVE
8 STORES, INC.;
9 THE PEP BOYS - MANNY MOE &
10 JACK OF CALIFORNIA;
11 PFIZER INC.;
12 PITA REALTY LIMITED (sued
13 individually and as successor-in-interest
14 to EASTERN MAGNESIA TALC
15 COMPANY);
16 PNEUMO ABEX LLC (sued as
17 successor-in-interest to ABEX
18 CORPORATION);
19 PRESTIGE BRANDS HOLDINGS,
20 INC.;
21 THE PROCTER & GAMBLE
22 COMPANY (sued individually and as
23 successor-in-interest to THE
24 SHULTON GROUP and/or SHULTON
25 INC.);
26 R. T. VANDERBILT HOLDING
27 COMPANY, INC. (sued individually
28 and as successor-in-interest to R. T.
VANDERBILT COMPANY, INC.);
SHELL OIL COMPANY;
SHULTON INC. (sued individually
and as successor to THE SHULTON
GROUP and/or SHULTON, INC.);
STANDARD MOTOR PRODUCTS,
INC. (sued as successor-in-interest to
EIS AUTOMOTIVE);
THE ANCHOR;
UNION CARBIDE
CORPORATION;
UNITED TECHNOLOGIES
CORPORATION (sued as successor-in-
interest to PRATT & WHITNEY);
VANDERBILT MINERALS, LLC
(sued as successor-by-merger to R. T.
VANDERBILT COMPANY, INC.);
WHITTAKER CLARK & DANIELS,
INC.;

1 **WYETH HOLDINGS LLC f/k/a**
2 **WYETH HOLDINGS**
3 **CORPORATION f/k/a AMERICAN**
4 **CYANAMID COMPANY (sued**
5 **individually and as successor-in-interest**
6 **to THE SHULTON GROUP and/or**
7 **SHULTON INC.);**
8 **and DOES 1-450, INCLUSIVE,**

9 Defendants.

10 **GENERAL ALLEGATIONS**

11 COMES NOW Plaintiffs KATHRYN SCHACKNE, Individually and as Personal
12 Representative of the Estate of MICHAEL SCHACKNE, Deceased, and KYLEE STEPNER
13 and KACEE SCHACKNE, who bring this action for wrongful death pursuant to section
14 377.60 of the California Code of Civil Procedure, and comes now KATHRYN SCHACKNE,
15 Individually and as Personal Representative of the Estate of MICHAEL SCHACKNE, and
16 KYLEE STEPNER and KACEE SCHACKNE, who bring this survival action pursuant to
17 section 377.30 of the California Code of Civil Procedure, and complains and alleges as
18 follows:

19 1. The true names and capacities, whether individual, corporate, associate,
20 governmental or otherwise, of Defendants DOES 1 through 450, inclusive, are unknown to
21 Plaintiffs at this time, who therefore sue said Defendants by such fictitious names. When the
22 true names and capacities of said Defendants have been ascertained, Plaintiffs will amend this
23 complaint accordingly. Plaintiffs are informed and believe, and thereon allege that each
24 Defendant designated herein as a DOE is responsible, negligently or in some other actionable
25 manner, for the events and happenings hereinafter referred to, and caused injuries and damages
26 proximately thereby to the Plaintiffs, as hereinafter alleged.

27 2. At all times herein mentioned, each of the Defendants was the agent, servant,
28 employee and/or joint venture of his co-Defendants, and each of them, and at all said times
each Defendant was acting in the full course and scope of said agency, service, employment
and/or joint venture. Plaintiffs are informed and believe, and thereon allege that at all times

1 herein mentioned, Defendants **3M COMPANY a/k/a MINNESOTA MINING &**
 2 **MANUFACTURING COMPANY; AMERICAN INTERNATIONAL INDUSTRIES INC.**
 3 **(sued individually and as successor-in-interest to THE NESLEMUR COMPANY);**
 4 **ARKEMA INC. f/k/a PENNWALT CORPORATION; AUTOZONE, INC.; AUTOZONE**
 5 **WEST, INC. (formerly known as CHIEF AUTO PARTS, INC. for CHIEF AUTO PARTS);**
 6 **BAKERS PRIDE OVEN COMPANY, LLC f/k/a BAKERS PRIDE OVEN COMPANY,**
 7 **INC.; BASF CATALYSTS LLC (sued individually and as successor-in-interest to**
 8 **ENGELHARD CORPORATION and its subsidiary PITA REALTY LIMITED s/b/m**
 9 **EASTERN MAGNESIA TALC COMPANY); BORG WARNER CORPORATION by its**
 10 **successor-in-interest BORG-WARNER MORSE TEC, INC.; BRENNTAG NORTH**
 11 **AMERICA, INC. (sued individually and as successor-in-interest to MINERAL PIGMENT**
 12 **SOLUTIONS, INC. and as successor-in-interest to WHITTAKER CLARK & DANIELS,**
 13 **INC.); BRENNTAG SPECIALTIES, INC. f/k/a MINERAL PIGMENT SOLUTIONS,**
 14 **INC. (sued individually and as successor-in-interest to WHITTAKER CLARK & DANIELS,**
 15 **INC.); CALAVERAS ASBESTOS, LTD; CHARLES B. CHRYSTAL COMPANY,**
 16 **INC.; CIRRUS ENTERPRISES, LLC (sued individually and as successor-in-interest to**
 17 **E.V. ROBERTS AND ASSOCIATES, INC. and EVRA, INC.); COLGATE-PALMOLIVE**
 18 **COMPANY (sued individually and as successor-in-interest to THE MENNEN COMPANY);**
 19 **CSK AUTO, INC. (sued individually and as successor-by-merger to KRAGEN AUTO**
 20 **SUPPLY CO. and SHUCKS AUTO PARTS); CYPRUS AMAX MINERALS COMPANY**
 21 **(sued individually, doing business as, and as successor to METROPOLITAN TALC CO. INC.**
 22 **and CHARLES MATHIEU INC. and SIERRA TALC COMPANY and UNITED TALC**
 23 **COMPANY); CYTEC INDUSTRIES, INC. (sued individually and as successor-in-interest**
 24 **to AMERICAN CYANAMID); DAP PRODUCTS, INC.; EASTERN MAGNESIA TALC**
 25 **COMPANY; FORD MOTOR COMPANY; GENUINE PARTS COMPANY a/k/a**
 26 **NAPA; GEORGIA-PACIFIC LLC f/k/a GEORGIA-PACIFIC CORPORATION; G. S.**
 27 **BLODGETT CORPORATION; HARCO LLC f/k/a HARCO LABORATORIES,**
 28 **INCORPORATED; HENKEL CORPORATION f/k/a HENKEL LOCTITE**

1 CORPORATION (sued as successor to PERMATEX COMPANY, INC. and individually and
 2 as successor-in-interest to DEXTER HYSOL AEROSPACE, INC.); HENNESSY
 3 INDUSTRIES, INC.; HENRY COMPANY LLC; W. W. HENRY COMPANY;
 4 HOLLEY PERFORMANCE PRODUCTS; HONEYWELL INTERNATIONAL, INC.
 5 f/k/a ALLIED-SIGNAL, INC. (sued as successor-in-interest to BENDIX CORPORATION and
 6 as successor to STROMBERG CARBURETOR); IMERYS TALC AMERICA, INC. (sued
 7 individually and as successor-in-interest to LUZENAC AMERICA, INC. successor-in-interest
 8 to CYPRUS INDUSTRIAL MINERALS COMPANY); INSIGHT PHARMACEUTICALS
 9 CORPORATION, a subsidiary of PRESTIGE BRANDS HOLDINGS, INC.; INSIGHT
 10 PHARMACEUTICALS LLC, a subsidiary of PRESTIGE BRANDS HOLDINGS, INC.;
 11 ITW POLYMERS SEALANTS NORTH AMERICA a/k/a/ ITW ENGINEERED
 12 POLYMERS NORTH AMERICA; METROPOLITAN LIFE INSURANCE COMPANY;
 13 MW CUSTOM PAPERS, LLC as successor-in-interest to THE MEAD CORPORATION;
 14 NOVARTIS PHARMACEUTICALS CORPORATION (sued individually and as
 15 successor-in-interest to CIBA-GEIGY CORPORATION and its subsidiary CIBA
 16 CONSUMER PHARMACEUTICALS); O'REILLY AUTO ENTERPRISES LLC (sued as
 17 successor-by-merger to CSK AUTO, INC.); O'REILLY AUTOMOTIVE STORES, INC.;
 18 THE PEP BOYS - MANNY MOE & JACK OF CALIFORNIA; PFIZER INC.; PITA
 19 REALTY LIMITED (sued individually and as successor-in-interest to EASTERN
 20 MAGNESIA TALC COMPANY); PNEUMO ABEX LLC (sued as successor-in-interest to
 21 ABEX CORPORATION); PRESTIGE BRANDS HOLDINGS, INC.; THE PROCTER &
 22 GAMBLE COMPANY (sued individually and as successor-in-interest to THE SHULTON
 23 GROUP and/or SHULTON INC.); R. T. VANDERBILT HOLDING COMPANY, INC.
 24 (sued individually and as successor-in-interest to R. T. VANDERBILT COMPANY, INC.);
 25 SHELL OIL COMPANY; SHULTON INC. (sued individually and as successor to THE
 26 SHULTON GROUP and/or SHULTON, INC.); STANDARD MOTOR PRODUCTS, INC.
 27 (sued as successor-in-interest to EIS AUTOMOTIVE); THE ANCHOR; UNION
 28 CARBIDE CORPORATION; UNITED TECHNOLOGIES CORPORATION (sued as

1 successor-in-interest to PRATT & WHITNEY); VANDERBILT MINERALS, LLC (sued
 2 as successor-by-merger to R. T. VANDERBILT COMPANY, INC.); WHITTAKER
 3 CLARK & DANIELS, INC.; WYETH HOLDINGS LLC f/k/a WYETH HOLDINGS
 4 CORPORATION f/k/a AMERICAN CYANAMID COMPANY (sued individually and as
 5 successor-in-interest to THE SHULTON GROUP and/or SHULTON INC.); and DOES 1-
 6 450, INCLUSIVE, were individuals, corporations, partnerships and/or unincorporated
 7 associations organized and existing under and by virtue of the laws of the State of California,
 8 or the laws of some other state or foreign jurisdiction, and that said Defendants, and each of
 9 them, were and are authorized to do and are doing business in the State of California, or the
 10 laws of some other state or foreign jurisdiction, and that said Defendants, and each of them,
 11 were and are authorized to do and are doing business in the State of California, and that said
 12 Defendants have regularly conducted business in the County of Los Angeles, State of
 13 California.

14 3. Plaintiffs allege herein that Decedent MICHAEL SCHACKNE developed
 15 malignant mesothelioma as a result of exposure to asbestos from Defendants' asbestos,
 16 asbestos-containing products, and/or equipment requiring and/or calling for the use of asbestos
 17 and/or asbestos-containing products, and/or products solely designed to be used with asbestos-
 18 containing products ("Defendants' Products"), including 3M COMPANY a/k/a
 19 MINNESOTA MINING & MANUFACTURING COMPANY (*for asbestos-containing 3M*
 20 *Marine Adhesive*); AMERICAN INTERNATIONAL INDUSTRIES INC. (sued
 21 individually and as successor-in-interest to THE NESLEMUR COMPANY) (*for asbestos-*
 22 *containing Pinaud Clubman Talc*); ARKEMA INC. f/k/a PENNWALT CORPORATION (*for*
 23 *asbestos-containing Caldesene Talcum Powder*); AUTOZONE, INC. (*as a supplier of*
 24 *asbestos-containing automotive parts*); AUTOZONE WEST, INC. (formerly known as
 25 CHIEF AUTO PARTS, INC. for CHIEF AUTO PARTS) (*as a supplier of asbestos-*
 26 *containing automotive parts*); BAKERS PRIDE OVEN COMPANY, LLC f/k/a BAKERS
 27 PRIDE OVEN COMPANY, INC. (*for asbestos-containing Bakers Pride Pizza Ovens*); BASF
 28 CATALYSTS LLC (sued individually and as successor-in-interest to ENGELHARD

1 CORPORATION and its subsidiary PITA REALTY LIMITED s/b/m EASTERN
 2 MAGNESIA TALC COMPANY) *(as a supplier of asbestos-containing talc)*; BORG
 3 WARNER CORPORATION by its successor-in-interest BORG-WARNER MORSE TEC,
 4 INC. *(for Borg-Warner Clutches)*; BRENNTAG NORTH AMERICA, INC. (sued
 5 individually and as successor-in-interest to MINERAL PIGMENT SOLUTIONS, INC. and as
 6 successor-in-interest to WHITTAKER CLARK & DANIELS, INC.) *(as a supplier of*
 7 *asbestos-containing talc)*; BRENNTAG SPECIALTIES, INC. f/k/a MINERAL PIGMENT
 8 SOLUTIONS, INC. (sued individually and as successor-in-interest to WHITTAKER CLARK
 9 & DANIELS, INC.) *(as a supplier of asbestos-containing talc)*; CALAVERAS ASBESTOS,
 10 LTD *(as a supplier of asbestos fibers)*; CHARLES B. CRYSTAL COMPANY, INC. *(as a*
 11 *supplier of asbestos-containing talc)*; CIRRUS ENTERPRISES, LLC (sued individually and
 12 as successor-in-interest to E.V. ROBERTS AND ASSOCIATES, INC. and EVRA, INC.) *(as a*
 13 *supplier of asbestos-containing Hysol Adhesives)*; COLGATE-PALMOLIVE COMPANY
 14 (sued individually and as successor-in-interest to THE MENNEN COMPANY) *(for asbestos-*
 15 *containing Mennen Shave Talc)*; CSK AUTO, INC. (sued individually and as successor-by-
 16 merger to KRAGEN AUTO SUPPLY CO. and SHUCKS AUTO PARTS) *(as a supplier of*
 17 *asbestos-containing friction products)*; CYPRUS AMAX MINERALS COMPANY (sued
 18 individually, doing business as, and as successor to METROPOLITAN TALC CO. INC. and
 19 CHARLES MATHIEU INC. and SIERRA TALC COMPANY and UNITED TALC
 20 COMPANY) *(as a supplier of asbestos-containing talc)*; CYTEC INDUSTRIES, INC. (sued
 21 individually and as successor-in-interest to AMERICAN CYANAMID) *(for asbestos-*
 22 *containing aircraft adhesives)*; DAP PRODUCTS, INC. *(for DAP Caulk)*; EASTERN
 23 MAGNESIA TALC COMPANY *(as a supplier of asbestos-containing talc)*; FORD
 24 MOTOR COMPANY *(for asbestos-containing Ford friction products)*; GENUINE PARTS
 25 COMPANY a/k/a NAPA *(as a supplier of asbestos-containing friction products)*;
 26 GEORGIA-PACIFIC LLC f/k/a GEORGIA-PACIFIC CORPORATION *(for Georgia-*
 27 *Pacific Joint Compound)*; G. S. BLODGETT CORPORATION *(for asbestos-containing*
 28 *Blodgett Pizza Ovens)*; HARCO LLC f/k/a HARCO LABORATORIES, INCORPORATED

1 *(as a supplier of asbestos-containing thermocouples); HENKEL CORPORATION f/k/a*
 2 *HENKEL LOCTITE CORPORATION (sued as successor to PERMATEx COMPANY, INC.*
 3 *and individually and as successor-in-interest to DEXTER HYSOL AEROSPACE, INC.) (for*
 4 *Permatex Gasket Sealants, Permatex Belt Grips, and aircraft adhesives); HENNESSY*
 5 *INDUSTRIES, INC. (for Ammco Arc Grinders); HENRY COMPANY LLC (for Henry*
 6 *Roofing Cement); W. W. HENRY COMPANY (for Henry Roofing Cement); HOLLEY*
 7 *PERFORMANCE PRODUCTS (for Holley Carburetors); HONEYWELL*
 8 *INTERNATIONAL, INC. f/k/a ALLIED-SIGNAL, INC. (sued as successor-in-interest to*
 9 *BENDIX CORPORATION and as successor to STROMBERG CARBURETOR) (for Bendix*
 10 *Brakes and Stromberg Carburetors); IMERYs TALC AMERICA, INC. (sued individually*
 11 *and as successor-in-interest to LUZENAC AMERICA, INC. successor-in-interest to CYPRUS*
 12 *INDUSTRIAL MINERALS COMPANY) (as a supplier of asbestos-containing talc);*
 13 *INSIGHT PHARMACEUTICALS CORPORATION, a subsidiary of PRESTIGE*
 14 *BRANDS HOLDINGS, INC. (for asbestos-containing Caldesene Talcum Powder); INSIGHT*
 15 *PHARMACEUTICALS LLC, a subsidiary of PRESTIGE BRANDS HOLDINGS, INC. (for*
 16 *asbestos-containing Caldesene Talcum Powder); ITW POLYMERS SEALANTS NORTH*
 17 *AMERICA a/k/a ITW ENGINEERED POLYMERS NORTH AMERICA (for Marine Tex*
 18 *Heavy Duty Plastic Patch); METROPOLITAN LIFE INSURANCE COMPANY (as a*
 19 *Conspiracy Defendant); MW CUSTOM PAPERS, LLC as successor-in-interest to THE*
 20 *MEAD CORPORATION (as a supplier of asbestos-containing friction paper); NOVARTIS*
 21 *PHARMACEUTICALS CORPORATION (sued individually and as successor-in-interest to*
 22 *CIBA-GEIGY CORPORATION and its subsidiary CIBA CONSUMER*
 23 *PHARMACEUTICALS) (for asbestos-containing Caldesene Talcum Powder); O'REILLY*
 24 *AUTO ENTERPRISES LLC (sued as successor-by-merger to CSK AUTO, INC.) (as a*
 25 *supplier of asbestos-containing friction products); O'REILLY AUTOMOTIVE STORES,*
 26 *INC. (as a supplier of asbestos-containing friction products); THE PEP BOYS - MANNY*
 27 *MOE & JACK OF CALIFORNIA (as a supplier of asbestos-containing friction products);*
 28 *PFIZER INC. (as a supplier of asbestos-containing talc); PITA REALTY LIMITED (sued*

1 individually and as successor-in-interest to EASTERN MAGNESIA TALC COMPANY) (*as a*
 2 *supplier of asbestos-containing talc*); PNEUMO ABEX LLC (sued as successor-in-interest to
 3 ABEX CORPORATION) (*as a supplier of Abex Brake Linings*); PRESTIGE BRANDS
 4 HOLDINGS, INC. (*for asbestos-containing Caldesene Talcum Powder*); THE PROCTER
 5 & GAMBLE COMPANY (sued individually and as successor-in-interest to THE SHULTON
 6 GROUP and/or SHULTON INC.) (*for asbestos-containing Old Spice Talcum Powder*); R. T.
 7 VANDERBILT HOLDING COMPANY, INC. (sued individually and as successor-in-
 8 interest to R. T. VANDERBILT COMPANY, INC.) (*as a supplier of asbestos-containing*
 9 *talc*); SHELL OIL COMPANY (*for asbestos-containing aircraft adhesive*); SHULTON
 10 INC. (sued individually and as successor to THE SHULTON GROUP and/or SHULTON,
 11 INC.) (*for asbestos-containing Old Spice Talcum Powder*); STANDARD MOTOR
 12 PRODUCTS, INC. (sued as successor-in-interest to EIS AUTOMOTIVE) (*for EIS Brakes*);
 13 THE ANCHOR (*as a supplier of asbestos-containing watercraft products*); UNION
 14 CARBIDE CORPORATION (*as a supplier of asbestos fibers*); UNITED
 15 TECHNOLOGIES CORPORATION (sued as successor-in-interest to PRATT &
 16 WHITNEY) (*for asbestos-containing Pratt & Whitney Aircraft Engines*); VANDERBILT
 17 MINERALS, LLC (sued as successor-by-merger to R. T. VANDERBILT COMPANY, INC.)
 18 (*as a supplier of asbestos-containing talc*); WHITTAKER CLARK & DANIELS, INC. (*as*
 19 *a supplier of asbestos-containing talc*); and WYETH HOLDINGS LLC f/k/a WYETH
 20 HOLDINGS CORPORATION f/k/a AMERICAN CYANAMID COMPANY (sued
 21 individually and as successor-in-interest to THE SHULTON GROUP and/or SHULTON
 22 INC.) (*for asbestos-containing Old Spice Talcum Powder and as a supplier of asbestos-*
 23 *containing talc*).

24 FIRST CAUSE OF ACTION

25 (Negligence)

26 PLAINTIFFS COMPLAIN OF DEFENDANTS AND DOES 1-450, THEIR
 27 "ALTERNATE ENTITIES", AND EACH OF THEM, AND FOR A CAUSE OF ACTION
 FOR NEGLIGENCE ALLEGE AS FOLLOWS:

28 4. Plaintiffs incorporate herein by reference, as though fully set forth therein, the

1 general allegations set forth above.

2 5. At all times herein mentioned, each of the named Defendants and DOES 1
3 through 450 was the successor, successor in business, successor in product line or a portion
4 thereof, parent, subsidiary, wholly or partially owned by, or the whole or partial owner of or
5 member in an entity researching, studying, manufacturing, fabricating, designing, modifying,
6 labeling, assembling, distributing, leasing, buying, offering for sale, supplying, selling,
7 inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting,
8 re-branding, manufacturing for others, packaging and advertising asbestos and products
9 containing asbestos, and/or products designed to cut, saw, or otherwise manipulate, and/or
10 equipment solely designed to be used with asbestos-containing products including, but not
11 limited to, those products identified in paragraph 3 above. Said entities shall hereinafter
12 collectively be called "alternate entities." Each of the herein named Defendants is liable for
13 the tortious conduct of each successor, successor in business, successor in product line or a
14 portion thereof, assign, predecessor in product line or a portion thereof, parent, subsidiary,
15 whole or partial owner, or wholly or partially owned entity, or entity that it was a member of,
16 or funded, that researched, repaired, marketed, warranted, re-branded, manufactured for
17 others and advertised asbestos, and asbestos products, and/or products designed to cut, saw, or
18 otherwise manipulate, and/or equipment solely designed to be used with asbestos-containing
19 products. The following Defendants, and each of them, are liable for the acts of each and
20 every "alternate entity", and each of them, in that there has been a virtual destruction of
21 Plaintiffs' remedy against each such "alternate entity"; Defendants, and each of them, have
22 acquired the assets, product line, or a portion thereof, of each such "alternate entity";
23 Defendants, and each of them, have caused the destruction of Plaintiffs' remedy against each
24 such "alternate entity"; each such Defendant has the ability to assume the risk-spreading role
25 of each such "alternate entity"; and that each such Defendant enjoys the goodwill originally
26 attached to each such "alternate entity".

27	<u>DEFENDANT</u>	<u>ALTERNATE ENTITY</u>
28	3M COMPANY	MINNESOTA MINING AND MANUFACTURING

1	ARKEMA, INC.	PENNWALT CORPORATION
2		
3	AMERICAN INTERNATIONAL INDUSTRIES INC.	THE NESLEMUR COMPANY
4	AUTOZONE WEST, INC.	CHIEF AUTO PARTS, INC.
5		CHIEF AUTO PARTS
6	BAKERS PRIDE OVEN COMPANY, LLC	BAKERS PRIDE OVEN COMPANY, INC.
7	BASF CATALYSTS LLC	ENGELHARD CORPORATION
8		PITA REALTY LIMITED
9	BORG WARNER CORPORATION	EASTERN MAGNESIA TALC COMPANY
10	BRENNTAG NORTH AMERICA, INC.	BORG-WARNER MORSE TEC, INC.
11	BRENNTAG SPECIALTIES, INC.	MINERAL PIGMENT SOLUTIONS, INC.
12		WHITTAKER, CLARK & DANIELS, INC.
13	CIRRUS ENTERPRISES, LLC	MINERAL PIGMENT SOLUTIONS, INC.
14	COLGATE-PALMOLIVE COMPANY	WHITTAKER, CLARK & DANIELS, INC.
15	CSK AUTO, INC.	E. V. ROBERTS AND ASSOCIATES, INC.
16		EVRA, INC.
17		THE MENNEN COMPANY
18		AL'S AND GRAND AUTO SUPPLY, INC.
19		CHECKER AUTO PARTS, INC.
20		CHECKER AUTO SUPPLY
21	CYPRUS AMAX MINERALS COMPANY	FASTLANE MERGER, LLC
22		KRAGEN AUTO SUPPLY CO.
23	CYTEC INDUSTRIES, INC.	M&O AUTO PARTS & EQUIPMENT, INC.
24	FORD MOTOR COMPANY	NORTHERN AUTOMOTIVE CORPORATION
25	GENUINE PARTS COMPANY	SCHUCK'S DISTRIBUTION CO.
26		TRK SOCIAL, INC.
27	GEORGIA-PACIFIC LLC	SIERRA TALC COMPANY
28		UNITED TALC COMPANY
		METROPOLITAN TALC CO. INC.
		CHARLES MATHIEU INC.
		AMERICAN CYANAMID
		MOTORCRAFT
		NAPA
		RAYLOC BRAKES
		GEORGIA-PACIFIC CORPORATION
		BESTWALL GYPSUM COMPANY
		GEORGIA-PACIFIC RESINS, INC.
		GEORGIA-PACIFIC WEST, INC.

1 HARCO LLC	HARCO LABORATORIES, INCORPORATED
2	
3 HENKEL CORPORATION	PERMATEX COMPANY, INC. HENKEL LOCTITE CORPORATION DEXTER HYSOL AEROSPACE, INC.
4	
5 HONEYWELL INTERNATIONAL, INC.	ALLIED SIGNAL, INC. BENDIX CORPORATION STROMBERG CARBURETOR
6	
7 IMERYS TALC AMERICA, INC.	LUZENAC AMERICA, INC. CYPRUS INDUSTRIAL MINERALS COMPANY
8	
9 INSIGHT PHARMACEUTICALS CORPORATION	PRESTIGE BRANDS HOLDINGS, INC
10	
11 INSIGHT PHARMACEUTICALS LLC	PRESTIGE BRANDS HOLDINGS, INC.
12 ITW POLYMERS SEALANTS NORTH NORTHAMERICA	ITW ENGINEERED POLYMERS NORTH AMERICA
13 AMERICA MW CUSTOM PAPERS, LLC	THE MEAD CORPORATION
14	
15 NOVARTIS PHARMACEUTICALS CORPORATION	CIBA-GEIGY CORPORATION CIBA CONSUMER PHARMACEUTICALS
16 O'REILLY AUTO ENTERPRISES LLC	CSK AUTO, INC.
17 THE PEP BOYS MANNY MOE & JACK OF CALIFORNIA	MMJ CORPORATION PEP PROPERTIES, INC.
18	
19 PITA REALTY LIMITED	EASTERN MAGNESIA TALC COMPANY
20 PNEUMO ABEX CORPORATION	ABEX CORPORATION
21 THE PROCTER & GAMBLE COMPANY	THE SHULTON GROUP SHULTON INC.
22 R. T. VANDERBILT HOLDING COMPANY, INC.	R. T. VANDERBILT COMPANY, INC.
23 SHULTON INC.	THE SHULTON GROUP
24	
25 STANDARD MOTOR PRODUCTS, INC.	EIS AUTOMOTIVE
26 UNION CARBIDE CORPORATION	THE DOW CHEMICAL COMPANY UNION CARBIDE CHEMICALS AND PLASTICS COMPANY, INC. UNION CARBIDE AND CARBON CORPORATION LINDE AIR PRODUCTS COMPANY NATIONAL CARBON CO., INC.
27	
28	

1		PREST-O-LITE CO., INC.
2		UNION CARBIDE COMPANY
3		CARBIDE AND CARBON CHEMICALS
4		CORPORATION
5		BAKELITE COROPORATION
6		UNION CARBIDE CONSUMER
7		PRODUCTS CO.
8		UNION CARBIDE MINING AND METALS
9		DIVISION
10		UNION CARBIDE ELECTRONICS
11		DIVISION
12		UNION CARBIDE HYDROCARBONS
13		DIVISION
14		UNION CARBIDE FERROALLOYS
15		DIVISION
16		JENNAT CORPORATION
17		AMERCHOL CORPORATION
18		UOP
19		UCAR CARBON COMPANY
20		UNION CARBIDE INDUSTRIAL GASES
21		INC.
22		PRAXAIR, INC.
23		POLIMERI EUROPA S.r.l.
24		ASIAN ACETYL COMPANY, LTD.
25		EQUATE PETROCHEMICAL COMPANY
26	UNITED TECHNOLOGIES CORPORATION	PRATT & WHITNEY
27	VANDERBILT MINERALS, LLC	R. T. VANDERBILT COMPANY, INC.
28	WYETH HOLDINGS LLC	WYETH HOLDINGS CORPORATION
		AMERICAN CYANAMID COMPANY
		THE SHULTON GROUP
		SHULTON, INC.

6. At all times herein mentioned, Defendants, their "alternate entities", and each of them, were and are engaged in the business of researching, manufacturing, fabricating, designing, modifying, labeling, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, renting, marketing, warranting, re-branding, manufacturing for others, packaging, and advertising asbestos and asbestos products, and/or products designed to cut, saw, or otherwise manipulate, and/or equipment solely designed to be used with asbestos-containing products, (hereinafter Defendants' Products). FORD MOTOR COMPANY specifically designed its braking systems for asbestos-containing brake linings such that no other material could be utilized as brake linings in those systems.

7. At all times herein mentioned, Defendants, their "alternate entities", and each of

1 them, singularly and jointly, negligently and carelessly researched, manufactured, fabricated,
 2 specified, designed, modified, tested or failed to test, abated or failed to abate, warned or failed
 3 to warn of the health hazards, labeled, assembled, distributed, leased, bought, rented, offered
 4 for sale, supplied, sold, inspected, serviced, installed, contracted for installation, failed to
 5 recall, failed to retrofit, repaired, marketed, warranted, re-branded, manufactured for others,
 6 packaged, and advertised Defendants' Products including, but not limited to, those products
 7 identified in paragraph 3 above, in that the Defendants' Products were unreasonably dangerous
 8 because they released respirable asbestos fibers which resulted in personal injuries to users,
 9 consumers, workers, bystanders, and others, including Plaintiffs' Decedent MICHAEL
 10 SCHACKNE herein (hereinafter collectively called "exposed persons"). Said products were
 11 used at all times in a manner that was reasonably foreseeable to Defendants, their "alternate
 12 entities", and each of them, thereby rendering said products unsafe and dangerous for use by
 13 "exposed persons". Plaintiffs herein allege that Decedent MICHAEL SCHACKNE'S
 14 exposures to Defendants' Products including, but not limited to, those products identified in
 15 paragraph 3 above (hereinafter referred to as "Defendants' products" or "Defendants' asbestos
 16 and asbestos-containing products, and/or equipment solely designed to be used with asbestos-
 17 containing products"), were a substantial contributing factor in the development of his
 18 mesothelioma, and his death on October 24, 2015, and therefore proximately caused Plaintiffs'
 19 Decedent's injuries and death.

20 8. Defendants, their "alternate entities", and each of them, had a duty to exercise
 21 reasonable care while engaging in the activities mentioned above and each Defendant
 22 breached said duty of reasonable care in that Defendants, and each of them, failed to safely
 23 and adequately design, manufacture and/or sell Defendants' Products; failed to test said
 24 products; failed to investigate the hazards of said products; failed to warn "exposed persons",
 25 including Plaintiffs' Decedent MICHAEL SCHACKNE, of the health hazards of using
 26 Defendants' Products; failed to disclose the known or knowable dangers of using Defendants'
 27 Products; failed to warn of the harmful exposures caused by use of said products to cut, saw,
 28 or otherwise manipulate asbestos-containing products; failed to obtain suitable alternative

1 materials to asbestos when such alternatives were available; failed to recall or retrofit products
2 after sale of Defendants' and as otherwise stated herein.

3 9. The Defendants' Products were and are hazardous to the health and safety of
4 Plaintiffs' Decedent, and others in Plaintiffs' Decedent's position working with, personally
5 using, and in close proximity to such products, and since on or before 1930, the hazards and
6 dangerous propensities of the Defendants' Products were both known and knowable to the
7 Defendants, their "alternate entities", and each of them, through the use of medical and/or
8 scientific data and other knowledge available to Defendants, their "alternate entities", and each
9 of them at the time of Defendants' manufacture, distribution, sale, research, study, fabrication,
10 design, modification, labeling, assembly, leasing, buying, offering for sale, supply, inspection,
11 service, installation, contracting for installation, repair, marketing, warranting, re-branding, re-
12 manufacturing for others, packaging and advertising, of those products, which clearly
13 indicated the hazards and dangerous propensities of asbestos presented a substantial danger to
14 users, including Plaintiffs' Decedent MICHAEL SCHACKNE, of Defendants' Products
15 through the intended and reasonably foreseeable use of those products.

16 10. Defendants, their "alternate entities", and each of them, knew, or reasonably
17 should have known, that Defendants' Products were dangerous and were likely to be
18 dangerous when used in their intended and reasonably foreseeable manner.

19 11. Defendants, their "alternate entities", and each of them, knew, or reasonably
20 should have known, that Defendants' Products would be installed, repaired, maintained,
21 overhauled, removed, sawed, chipped, hammered, mixed, scraped, sanded, swept, broken,
22 "ripped out" and/or used to cut, saw, grind, or otherwise manipulate products containing
23 asbestos, or otherwise disturbed in their ordinary, intended and foreseeable use, resulting in the
24 release of airborne hazardous and dangerous asbestos fibers, and that through such activity,
25 "exposed persons," including Plaintiffs' Decedent MICHAEL SCHACKNE herein, would be
26 exposed to said hazardous and dangerous asbestos fibers. Defendants, their "alternate
27 entities", and each of them, knew or reasonably should have known that users, such as
28 Plaintiffs' Decedent MICHAEL SCHACKNE and others in his position, working with,

1 personally using, and in close proximity to Defendants' Products would not realize or know
2 the danger. Defendants, their "alternate entities", and each of them negligently failed to
3 adequately warn or instruct of the dangers of the products. A reasonable designer,
4 manufacturer, distributor, seller, installer, buyer or supplier, under the same or similar
5 circumstances, would have warned of the dangers to avoid exposing others to a foreseeable
6 risk of harm. The negligent failure of Defendants, their "alternate entities", and each of them
7 to warn was a substantial factor in causing harm to Plaintiffs' Decedent MICHAEL
8 SCHACKNE, proximately resulting in his death on October 24, 2015, the nature of which is
9 set forth in Exhibit "B", which is attached hereto and incorporated by reference herein.

10 12. Plaintiffs' Decedent MICHAEL SCHACKNE used, handled, or was otherwise
11 exposed to Defendants' Products referred to herein in a manner that was reasonably
12 foreseeable to Defendants and each of them. Plaintiffs' Decedent's exposure to Defendants'
13 Products occurred at various locations set forth in Exhibit "A", which is attached hereto and
14 incorporated by reference herein.

15 13. As a direct and proximate result of the conduct of the Defendants, their
16 "alternate entities", and each of them, as aforesaid, Plaintiffs' Decedent MICHAEL
17 SCHACKNE'S exposure to Defendants' Products caused severe and permanent injury and
18 death to the Decedent, the nature of which, along with the date of Decedent's diagnosis and
19 the date he learned such injuries were attributable to exposure to Defendants' Products, are set
20 forth in Exhibit "B", which is attached hereto and incorporated by reference herein. Plaintiffs
21 is informed and believes, and thereon alleges, that progressive lung disease, cancer and other
22 serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that
23 said disease results from exposure to Defendants' Products over a period of time.

24 14. Plaintiffs' Decedent MICHAEL SCHACKNE suffered from malignant
25 mesothelioma, caused by exposure to asbestos from Defendants' Products, including those
26 products identified in paragraph 3 above. Plaintiffs' Decedent MICHAEL SCHACKNE was
27 not aware at the time of exposure that Defendants' Products presented any risk of injury and/or
28 disease.

1 15. As a direct and proximate result of the aforesaid conduct of Defendants, their
 2 "alternate entities", and each of them, Plaintiffs' Decedent MICHAEL SCHACKNE suffered
 3 permanent injuries to his person, body and health, including, but not limited to, pain,
 4 discomfort, loss of weight, loss of appetite, fatigue, somnolence, lethargy, dyspnea, dysphagia,
 5 and other physical symptoms, and the mental and emotional distress attendant thereto, as
 6 Decedent's malignant mesothelioma progressed, from the effect of exposure to asbestos fibers,
 7 proximately resulting in his death on October 24, 2015, all to Plaintiffs' general damage in a
 8 sum in excess of the jurisdictional limit of a limited civil case.

9 16. As a direct and proximate result of the aforesaid conduct of the Defendants, their
 10 "alternate entities", and each of them, Plaintiffs' Decedent MICHAEL SCHACKNE incurred,
 11 and Plaintiffs continue to incur, liability for physicians, surgeons, nurses, hospital care,
 12 medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof
 13 being presently unknown to Plaintiffs, subject to proof at trial.

14 17. As a further direct and proximate result of the said conduct of the Defendants,
 15 their "alternate entities", and each of them, Plaintiffs have incurred, and will incur, loss of
 16 income, wages, profits and commissions, a diminishment of earning potential, funeral and
 17 burial expenses, and other pecuniary losses, the true and exact amount thereof being presently
 18 unknown to Plaintiffs, subject to proof at trial. As a further direct and proximate result of the
 19 said conduct of the Defendants, their "alternate entities", and each of them, Plaintiffs have
 20 been, and in the future will be, deprived of the support, society, solace, care, comfort,
 21 companionship, affection, advice, services and guidance of Decedent MICHAEL
 22 SCHACKNE, the full nature and extent of which are not yet known to Plaintiffs and leave is
 23 requested to amend this complaint to conform to proof at the time of trial.

24 18. Plaintiffs further allege that Defendants, their "alternate entities", and each of
 25 them, also engaged in the following wrongful acts which support Plaintiffs' prayer for punitive
 26 damages:

27 (a) Defendants, their "alternate entities", and each of them, suppressed from all
 28 consumers, including Plaintiffs' Decedent MICHAEL SCHACKNE, medical and scientific

1 information concerning the health hazards associated with inhalation of asbestos, including the
2 substantial risk of injury or death therefrom. Although Defendants, and each of them, knew of
3 the substantial risks associated with exposure to asbestos, they willfully and knowingly
4 concealed such information from the users of their asbestos and/or asbestos-containing
5 products in conscious disregard of the rights, safety and welfare of "exposed persons",
6 including Plaintiffs' Decedent MICHAEL SCHACKNE;

7 (b) Defendants, their "alternate entities", and each of them, belonged to, participated
8 in, and financially supported industry organizations including, but not limited to, the Cosmetic
9 Toiletry and Fragrance Association (now Personal Care Products Council), the Gypsum
10 Association, Asbestos Information Association, Industrial Hygiene Foundation and others,
11 which, for and on behalf of Defendants, their "alternate entities", and each of them, actively
12 promoted the suppression of information about the dangers of asbestos to users of the
13 aforementioned products and materials, thereby misleading Plaintiffs' Decedent MICHAEL
14 SCHACKNE as to the safety of their products. Through their participation and association
15 with such industry organizations, Defendants and each of them knowingly and deliberately
16 concealed and suppressed the true information regarding asbestos and its dangers, and
17 propagated misinformation intended to instill in users of Defendants' Products a false security
18 about the safety of their products. The Dust Control Committee, which changed its name to
19 the Air Hygiene Committee of the Asbestos Textile Institute, was specifically enlisted to study
20 the subject of dust control. Discussions in this committee were held many times regarding the
21 dangers inherent in asbestos and the dangers, which arise from the lack of control of dust, and
22 such information was suppressed from public dissemination from 1946 to a date unknown to
23 Plaintiffs' Decedent MICHAEL SCHACKNE;

24 (c) Commencing in 1930 with the study of mine and mill workers at Asbestos and
25 Thetford Mines in Quebec, Canada, and the study of the workers at Raybestos-Manhattan
26 plants in Manheim and Charleston, South Carolina, Defendants, their "alternate entities", and
27 each of them, knew and possessed medical and scientific information of the connection
28 between the inhalation of asbestos fibers and asbestosis, which information was disseminated

1 through the Asbestos Textile Institute and other industry organizations to all other Defendants,
2 their "alternate entities", and each of them, herein. Between 1942 and 1950, the Defendants,
3 their "alternate entities", and each of them, failed to provide this information to consumers;

4 (d) Defendants, their "alternate entities", and each of them, failed to warn Plaintiffs'
5 Decedent MICHAEL SCHACKNE and others of the nature of said materials which were
6 dangerous when breathed and which could cause pathological effects without noticeable
7 trauma, despite the fact that Defendants, their "alternate entities", and each of them, possessed
8 knowledge and were under a duty to disclose that said materials were dangerous and a threat to
9 the health of persons coming into contact therewith;

10 (e) Defendants, their "alternate entities", and each of them, failed to provide
11 Plaintiffs' Decedent MICHAEL SCHACKNE with information concerning adequate
12 protective masks and other equipment devised to be used when applying, mixing, cutting,
13 installing, sanding, and personally using the products of the Defendants, their "alternate
14 entities", and each of them, despite knowing that such protective measures were necessary,
15 and that they were under a duty to disclose that such materials were dangerous and would
16 result in injury to Plaintiffs' Decedent MICHAEL SCHACKNE and others applying, installing
17 and personally using such material;

18 (f) Defendants, their "alternate entities", and each of them, knew and failed to
19 disclose that Plaintiffs' Decedent MICHAEL SCHACKNE and anyone similarly situated,
20 upon inhalation of asbestos would, in time, have a substantial risk of developing irreversible
21 conditions of pneumoconiosis, asbestosis, mesothelioma and/or cancer;

22 (g) Defendants, their "alternate entities", and each of them, failed to provide
23 information of the true nature of the hazards of asbestos materials and that exposure to these
24 material would cause pathological effects without noticeable trauma to the public, including
25 buyers, users, and physicians employed by Plaintiffs' Decedent MICHAEL SCHACKNE so
26 that said physicians could not examine, diagnose, and treat Decedent and others who were
27 exposed to asbestos, despite the fact that Defendants, their "alternate entities", and each of
28 them, were under a duty to so inform and said failure was misleading.

1 19. Defendants, their "alternate entities", and each of them, and their officers,
2 directors, and managing agents participated in, authorized, expressly and impliedly ratified,
3 and had full knowledge of, or should have known of, each of the acts set forth herein.
4 Defendants, their "alternate entities", and each of them, are liable for the oppressive and
5 malicious acts of their "alternate entities", and each of them, and each Defendant's officers,
6 directors, and managing agents participated in, authorized, expressly and impliedly ratified,
7 and had full knowledge of, or should have known of, the acts of each of their "alternate
8 entities" as set forth herein.

9 20. The herein-described conduct of said Defendants, their "alternate entities", and
10 each of them, was and is willful, malicious, oppressive, outrageous, and in conscious disregard
11 and indifference to the safety and health of "exposed persons," including Plaintiffs' Decedent
12 MICHAEL SCHACKNE, in that Defendants, and each of them, continued to manufacture,
13 market and/or sell dangerous asbestos, asbestos-containing products and/or equipment, and/or
14 equipment solely designed for use with asbestos-containing products known to cause severe,
15 permanent injuries and death, despite possessing knowledge of the substantial hazards posed
16 by use of their products and/or equipment, in order to continue to profit financially therefrom.
17 Defendants, their "alternate entities", and each of them, engaged in such conduct so
18 despicable, contemptible, base, vile, miserable, wretched and loathsome as to be looked down
19 upon and despised by ordinary people and justifies an award of punitive and exemplary
20 damages pursuant to Civil Code section 3294. Plaintiffs, for the sake of example and by way
21 of punishing said Defendants, seek punitive damages according to proof.

22 21. Defendants and each of them engaged in the malicious conduct described herein
23 which was intended by Defendants and each of them to cause injury to the Decedent, and
24 despicable conduct which was carried on by the Defendants with a willful and conscious
25 disregard of the rights or safety of others, including Plaintiffs' Decedent MICHAEL
26 SCHACKNE.

27 22. Defendants, and each of them, engaged in oppressive conduct described herein
28 which was despicable conduct that subjected persons, including Plaintiffs' Decedent

1 MICHAEL SCHACKNE, to cruel and unjust hardship in the form of severe, debilitating and
 2 fatal diseases like asbestosis, lung cancer and mesothelioma, in conscious disregard of those
 3 persons' rights.

4 23. As a direct and proximate result of such intentional conduct by Defendants, their
 5 "alternate entities" and each of them, Plaintiffs' Decedent MICHAEL SCHACKNE sustained
 6 the injuries and damages alleged herein.

7 WHEREFORE, Plaintiffs pray for judgment against Defendants, their "alternate
 8 entities", and each of them, as hereinafter set forth.

9 SECOND CAUSE OF ACTION

10 (Strict Liability)

11 AS AND FOR A SECOND, SEPARATE, FURTHER AND DISTINCT CAUSE OF
 12 ACTION FOR STRICT LIABILITY, PLAINTIFFS COMPLAIN OF DEFENDANTS, DOES
 13 1-450, THEIR "ALTERNATE ENTITIES", AND EACH OF THEM, AND ALLEGE AS
 14 FOLLOWS:

15 24. Plaintiffs incorporate herein by reference, as though fully set forth therein, each
 16 and every one of the general allegations and the allegations contained in the First Cause of
 17 Action herein.

18 25. Defendants, their "alternate entities", and each of them, sold the aforementioned
 19 Defendants' Products, which were defective in that they failed to adequately warn or instruct
 20 of the known and knowable dangers and risks of the ordinary, intended, and foreseeable use of
 21 their products, which dangers and risks would not have been, and were not, recognized by
 22 ordinary consumers of the products, including Plaintiffs' Decedent MICHAEL SCHACKNE,
 23 and the lack of sufficient instructions and/or warnings was a substantial factor in causing harm
 24 to Plaintiffs' Decedent MICHAEL SCHACKNE and others in Plaintiffs' Decedent's position
 25 working with, personally using, and in close proximity to such products.

26 26. Defendants' Products were defective and unsafe for their intended purpose and
 27 foreseeable use in that, when used, handled, installed, repaired, maintained, overhauled,
 28 removed, sawed, chipped, hammered, mixed, scraped, sanded, swept, broken, "ripped out"
 and/or used to cut, saw, grind, or otherwise manipulate products containing asbestos, or

1 otherwise disturbed, said products would result in the release, and therefore inhalation of,
2 hazardous and dangerous asbestos fibers by exposed persons, including Plaintiffs' Decedent
3 MICHAEL SCHACKNE. The defect existed in all of said products when they left the
4 possession of the Defendants, their "alternate entities", and each of them. At the time
5 Defendants' Products were used by Plaintiffs' Decedent, and others in Plaintiffs' Decedent's
6 position working with, personally using, and in close proximity to such products, the products
7 were substantially the same as when they left the possession of the Defendants, their "alternate
8 entities", and each of them and/or any changes made to the products after they left the
9 possession of Defendants, their "alternate entities", and each of them were reasonably
10 foreseeable to Defendants, their "alternate entities", and each of them. Defendants' Products
11 were used by Plaintiffs' Decedent MICHAEL SCHACKNE, and others in Plaintiffs'
12 Decedent's position working with, personally using, and in close proximity to such products,
13 in a way that was reasonably foreseeable to Defendants, and each of them. The defect in said
14 products was a substantial factor in causing harm and personal injuries to Plaintiffs' Decedent
15 MICHAEL SCHACKNE, including malignant mesothelioma, while being used in a
16 reasonably foreseeable manner, thereby rendering said products defective, unsafe, and
17 unreasonably dangerous for their ordinary and intended use.

18 27. As a direct and proximate result of the actions and conduct outlined herein,
19 Defendants' Products were defective in that they failed to perform as safely as an ordinary
20 consumer would have expected in that Defendants' Products, and each of them, cause
21 respirable asbestos fibers to be released during their ordinary and intended use, and such
22 hazardous exposures lacked any perceptible qualities to the human body, yet they cause severe
23 and fatal diseases, including asbestosis, lung cancer, mesothelioma and other cancers in
24 humans. Plaintiffs further allege that "exposed persons", including Plaintiffs' Decedent
25 MICHAEL SCHACKNE, were unaware of the harmful effects of asbestos and further
26 unaware of the harmful exposures to Defendants' Products when such exposures occurred, and
27 thus the failure of Defendants' Products to perform as safely as Plaintiffs' Decedent
28 MICHAEL SCHACKNE had reason to expect was a substantial factor in causing his injuries.

1 Moreover, Defendants' Products were also defective in their design under the "risk/benefit
2 test" of design defect because the risks of said products outweighed their benefits.

3 28. As a direct and proximate result of the actions and conduct outlined herein,
4 Plaintiffs' Decedent MICHAEL SCHACKNE has suffered the injuries and damages alleged
5 herein.

6 29. Plaintiffs further allege that Defendants, their "alternate entities", and each of
7 them, also engaged in the following wrongful acts:

8 (a) Defendants, their "alternate entities", and each of them, suppressed from all
9 consumers, including Plaintiffs' Decedent MICHAEL SCHACKNE, medical and scientific
10 information concerning the health hazards associated with inhalation of asbestos, including the
11 substantial risk of injury or death therefrom. Although Defendants, and each of them, knew of
12 the substantial risks associated with exposure to asbestos, they willfully and knowingly
13 concealed such information from the users of their asbestos, and/or asbestos-containing
14 products, and/or equipment solely designed to be used with asbestos-containing products in
15 conscious disregard of the rights, safety and welfare of "exposed persons", including
16 Plaintiffs' Decedent MICHAEL SCHACKNE;

17 (b) Defendants, their "alternate entities", and each of them, belonged to, participated
18 in, and financially supported industry organizations including, but not limited to, the Cosmetic
19 Toiletry and Fragrance Association (now Personal Care Products Council), the Gypsum
20 Association, Asbestos Information Association, Industrial Hygiene Foundation and others,
21 which, for and on behalf of Defendants, their "alternate entities", and each of them, actively
22 promoted the suppression of information about the dangers of asbestos to users of the
23 aforementioned products, materials, and/or equipment solely designed for use with asbestos-
24 containing products, thereby misleading Plaintiffs' Decedent MICHAEL SCHACKNE as to
25 the safety of their products and/or equipment. Through their participation and association with
26 such industry organizations, Defendants and each of them knowingly and deliberately
27 concealed and suppressed the true information regarding asbestos and its dangers, and
28 propagated misinformation intended to instill in users of Defendants' Products a false security

1 about the safety of their products. The Dust Control Committee, which changed its name to
2 the Air Hygiene Committee of the Asbestos Textile Institute, was specifically enlisted to study
3 the subject of dust control. Discussions in this committee were held many times regarding the
4 dangers inherent in asbestos and the dangers, which arise from the lack of control of dust, and
5 such information was suppressed from public dissemination from 1946 to a date unknown to
6 Plaintiffs at this time;

7 (c) Commencing in 1930 with the study of mine and mill workers at Asbestos and
8 Thetford Mines in Quebec, Canada, and the study of the workers at Raybestos-Manhattan
9 plants in Manheim and Charleston, South Carolina, Defendants, their "alternate entities", and
10 each of them, knew and possessed medical and scientific information of the connection
11 between the inhalation of asbestos fibers and asbestosis, which information was disseminated
12 through the Asbestos Textile Institute and other industry organizations to all other Defendants,
13 their "alternate entities", and each of them, herein. Between 1942 and 1950, the Defendants,
14 their "alternate entities", and each of them, failed to provide this information to consumers;

15 (d) Defendants, their "alternate entities", and each of them, failed to warn Plaintiffs'
16 Decedent MICHAEL SCHACKNE and others of the nature of said materials which were
17 dangerous when breathed and which could cause pathological effects without noticeable
18 trauma, despite the fact that Defendants, their "alternate entities", and each of them, possessed
19 knowledge and were under a duty to disclose that said materials were dangerous and a threat to
20 the health of persons coming into contact therewith;

21 (e) Defendants, their "alternate entities", and each of them, failed to provide
22 Plaintiffs' Decedent MICHAEL SCHACKNE with information concerning adequate
23 protective masks and other equipment devised to be used when applying, mixing, sawing,
24 cutting, installing, sanding, and personally using the products of the Defendants, their
25 "alternate entities", and each of them, despite knowing that such protective measures were
26 necessary, and that they were under a duty to disclose that such materials were dangerous and
27 would result in injury to Plaintiffs' Decedent MICHAEL SCHACKNE and others applying,
28 installing and personally using such materials;

1 (f) Defendants, their "alternate entities", and each of them, knew and failed to
2 disclose that Plaintiffs' Decedent MICHAEL SCHACKNE and anyone similarly situated,
3 upon inhalation of asbestos would, in time, have a substantial risk of developing irreversible
4 conditions of pneumoconiosis, asbestosis, mesothelioma and/or cancer;

5 (g) Defendants, their "alternate entities", and each of them, failed to provide
6 information of the true nature of the hazards of asbestos materials and that exposure to these
7 material would cause pathological effects without noticeable trauma to the public, including
8 buyers, users, and physicians employed by Plaintiffs' Decedent MICHAEL SCHACKNE, so
9 that said physicians could not examine, diagnose, and treat Plaintiffs' Decedent and others
10 who were exposed to asbestos, despite the fact that Defendants, their "alternate entities", and
11 each of them, were under a duty to so inform and said failure was misleading.

12 30. Defendants, their "alternate entities", and each of them, and their officers,
13 directors, and managing agents participated in, authorized, expressly and impliedly ratified,
14 and had full knowledge of, or should have known of, each of the acts set forth herein.
15 Defendants, their "alternate entities", and each of them, are liable for the oppressive and
16 malicious acts of their "alternate entities", and each of them, and each Defendant's officers,
17 directors, and managing agents participated in, authorized, expressly and impliedly ratified,
18 and had full knowledge of, or should have known of, the acts of each of their "alternate
19 entities" as set forth herein.

20 31. The herein-described conduct of said Defendants, their "alternate entities", and
21 each of them, was and is willful, malicious, oppressive, outrageous, and in conscious disregard
22 and indifference to the safety and health of "exposed persons," including Plaintiffs' Decedent
23 MICHAEL SCHACKNE, in that Defendants, and each of them, continued to manufacture,
24 market and/or sell dangerous products known to cause severe, permanent injuries and death,
25 despite possessing knowledge of the substantial hazards posed by use of their products, in
26 order to continue to profit financially therefrom. Defendants, their "alternate entities", and
27 each of them, engaged in such conduct so despicable, contemptible, base, vile, miserable,
28 wretched and loathsome as to be looked down upon and despised by ordinary people and

1 justifies an award of punitive and exemplary damages pursuant to Civil Code section 3294.
 2 Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive
 3 damages according to proof.

4 32. Defendants and each of them engaged in conduct which was intended by
 5 Defendants, and each of them, to cause injury to the Decedent, and despicable conduct which
 6 was carried on by the Defendants with a willful and conscious disregard of the rights or safety
 7 of others, including Plaintiffs' Decedent MICHAEL SCHACKNE.

8 33. Defendants, and each of them, engaged in the dispicable conduct described
 9 herein that subjected persons, including Plaintiffs' Decedent MICHAEL SCHACKNE, to
 10 cruel and unjust hardship in the form of severe, debilitating and fatal diseases like asbestosis,
 11 lung cancer and mesothelioma, in conscious disregard of those persons' rights.

12 34. As a direct and proximate result of such intentional conduct by Defendants, their
 13 "alternate entities" and each of them, Plaintiffs' Decedent MICHAEL SCHACKNE sustained
 14 the injuries and damages alleged herein.

15 THIRD CAUSE OF ACTION

16 (Conspiracy)

17
 18 AS AND FOR A FURTHER THIRD SEPARATE, AND DISTINCT CAUSE OF
 19 ACTION FOR CONSPIRACY, PLAINTIFFS COMPLAIN OF DEFENDANT
 20 METROPOLITAN LIFE INSURANCE COMPANY, AND DOES 1-450, THEIR
 21 "ALTERNATE ENTITIES", AND EACH OF THEM, AND ALLEGES AS FOLLOWS:

22 35. Defendant METROPOLITAN LIFE INSURANCE COMPANY rendered
 23 substantial aid and assistance to the manufacturers of asbestos-containing products to which
 24 Plaintiffs' Decedent MICHAEL SCHACKNE was exposed, and such assistance by
 25 Metropolitan Life aided and abetted the negligence and the marketing of unreasonably
 26 dangerous asbestos-containing products by such manufacturers which proximately caused
 27 Plaintiffs' Decedent MICHAEL SCHACKNE's illness, injuries, disabilities and ultimate
 28 death.

36. In both conducting tests and in publishing their alleged results,
 METROPOLITAN LIFE failed to exercise reasonable care to conduct or publish complete,

1 adequate and accurate tests of the health effects of asbestos. METROPOLITAN LIFE also
 2 caused to be published intentionally false, misleading, inaccurate and deceptive information
 3 about the health effects of asbestos exposure.

4 37. Plaintiffs' Decedent MICHAEL SCHACKNE unwittingly but justifiably relied
 5 upon the thoroughness of METROPOLITAN LIFE's tests and information dissemination,
 6 the results of which Metropolitan Life published in leading medical journals.

7 38. As a direct and proximate contributing result of METROPOLITAN LIFE's
 8 failures to conduct or accurately publish adequate tests or disseminate accurate and truthful
 9 information, after undertaking to do so; (i) the risk of harm to Plaintiffs' Decedent MICHAEL
 10 SCHACKNE from asbestos exposure was increased, and (ii) Plaintiffs' Decedent MICHAEL
 11 SCHACKNE suffered the injuries described below.

12 39. In failing to test fully and adequately for the adverse health effects from
 13 exposure to asbestos; in delaying the publication of such results; and in falsely editing such
 14 results as were obtained; in suppressing relevant medical inquiry and knowledge about those
 15 hazards to promote the sale and distribution of asbestos as a harmless product; and in
 16 collaborating with the other Defendants materially to understate the hazards of asbestos
 17 exposure, all for its own profit and gain, METROPOLITAN LIFE acted recklessly,
 18 wantonly, and in calculated disregard for the welfare of the general public, including
 19 Plaintiffs' Decedent MICHAEL SCHACKNE.

20 40. WHEREFORE, Plaintiffs pray for judgment against Defendants, their "alternate
 21 entities", and each of them, in an amount to be proved at trial in each individual case, as follows:

22 Decedent MICHAEL SCHACKNE, by and through his personal representative,
 23 KATHRYN SCHACKNE, pursuant to C.C.P. section 377.30, et seq.:

- 24 1. For DECEDENT's medical and related expenses according to proof;
- 25 2. For DECEDENT's loss of income and income potential;
- 26 3. For exemplary or punitive damages according to proof;

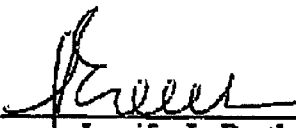
KATHRYN SCHACKNE, KYLEE STEPNER, and KACIN SCHACKNE,
pursuant to C.C.P. section 377.60. et seq.:

4. For PLAINTIFFS' medical and related expenses according to proof;
5. For PLAINTIFFS' loss of income and income potential caused by DECEDENT's death, and for PLAINTIFFS' loss of DECEDENT's financial support and financial contributions;
6. For funeral and burial expenses caused by DECEDENT's death;
7. For PLAINTIFFS' general damages according to proof, including damages for loss of love, companionship, comfort, affection, solace, moral support and/or society according to proof caused by DECEDENT's death;
8. For exemplary or punitive damages according to proof;

FOR ALL PLAINTIFFS:

9. For Plaintiffs' cost of suit herein;
10. For exemplary or punitive damages according to proof;
11. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided in C.C.P. section 998, C.C.P. section 1032 and related provisions of law.

DATED: October 21, 2016 SIMON GREENSTONE PANATIER BARTLETT, P.C.

By: 
Jennifer L. Bartlett
Jordan Blumenfeld-James

and
JOHN M. CARON, CA Bar No. 130633
LAW OFFICE OF WORTHINGTON & CARON, P. C.
273 W. 7th Street
San Pedro, California 90731
Telephone (310) 221-8090
Facsimile (310) 221-8095


Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury as to all issues so triable.

DATED: October 21, 2016 **SIMON GREENSTONE PANATIER BARTLETT, PC**

By:


Jennifer L. Bartlett
Jordan Blumenfeld-James

and

JOHN M. CARON, CA Bar No. 130633
LAW OFFICE OF WORTHINGTON & CARON, P. C.
273 W. 7th Street
San Pedro, California 90731
Telephone (310) 221-8090
Facsimile (310) 221-8095

Attorneys for Plaintiffs